

HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR

S.B. Civil Writ Petition No. 7963/2025

Pawan Kumar Ninama
-----Petitioner

Versus

State Of Rajasthan
-----Respondent

Connected With

S.B. Civil Writ Petition No. 10016/2025

Lalita Choudhary (Application Id-Ph119771)
-----Petitioner

Versus

State Of Rajasthan
-----Respondent

For Petitioner(s)	:	Mr. Yashpal Khileree
For Respondent(s)	:	Mr. N.K. Metha, Dy.G.C. Mr. Hemant Ballani Ms. Sagun Mathur

HON'BLE MS. JUSTICE REKHA BORANA

Order

26/05/2025

S.B. Civil Writ Petition No. 7963/2025

1. The matter comes up on an application under Article 226(3) of the Constitution of India for vacation of interim order dated 21.04.2025.
2. Counsel for the petitioner, at the very inception, raised an objection that the said application is not maintainable as order dated 21.04.2025 was passed in presence of the counsel for the respondents.
3. Counsel for the respondents submits that a bare perusal of the mark-list of the Diploma Course of petitioner Nos.2 and 3

reflects that the same are fake as the marks as awarded qua the subjects are more than the maximum marks. Counsel while pointing out to the mark-list of petitioner No.3 (Page No.50) submitted that more than 25 marks in each of the subject qua internal examination has been awarded whereas the maximum marks itself were 20. Similar is the case of petitioner No.2.

4. Counsel submits that in the said situation, when it is on the face of it, clear that the mark-list and the consequential degree/certificate is fake, interim order passed in favour of the petitioner deserves to be vacated.

5. Further, counsel while pointing out to communication dated 23.05.2024 submitted that the Deputy Registrar of the University in question did not even hand over the documents pertaining to these petitioners when an enquiry was sought to be made by the competent authority, on the premise that the complete record was burnt/destroyed in some fire accident.

6. After hearing the counsels and perusing the mark-lists of petitioner Nos.2 and 3 and after considering the fact that the Deputy Registrar of the University in question did not even provide the record pertaining to the said petitioners to the competent authority, this Court is of the prima facie view that the mark-list of both the petitioners, on the face of it, seems to be fake. Therefore, this Court deems it proper to modify interim order dated 21.04.2025 to the extent that only one post of Pharmacist in the category of TSP-ST and one post in the category of OBC-NCL shall be kept vacant qua petitioner Nos.1 and 4.

7. So far as maintainability of application under Article 226(3) is concerned, this Court is of the clear view that an illegality, whenever and wherever pointed out, can be taken care of by the Court even Suo Moto. Even if it is held that the application under Article 226(3) of the Constitution of India is not maintainable, the Court is not handicapped to pass/modify any order, Suo Moto, on some illegality been pointed out.

8. Interim order dated 21.04.2025 is hence, modified to the above extent.

9. List on 22.07.2025.

S.B. Civil Writ Petition No. 10016/2025

List along with S.B.Civil Writ Petition No.7963/2025.

(REKHA BORANA),J